

REMARKS

The Applicants have carefully reviewed and considered the Office Action of January 28, 2004 finally rejecting the claims 1-11 in this application. In response the Applicants submit a Request for Continued Examination along with this Amendment. In this Amendment original claims 1-11 are canceled and new claims 12-33 are presented for the review and approval of the Examiner.

New independent claim 12 reads on a swinging article carrier assembly including a mounting arm for securing to the vehicle, a swing arm pivotally secured to the mounting arm and a planar platform pivotally secured to the swing arm. Neither U.S. Patent 5,845,832 to Eichmann nor U.S. Patent 5,439,151 to Clayton disclose such a structure as claimed.

More specifically, the Eichmann patent discloses a vehicle mounted cargo carrier comprising what the Examiner argues is a mounting arm 32, a swing arm 38, 42, a base 46 and article carriers 54, 55, 58, 59. The base 46 is illustrated and described as a rack having a rectangular frame including frame bars 48-51 and handle bars 58, 59 that are identified as being convenient for manipulation of the rack as well as the entire cargo carrier 24. The swinging article carrier in Eichmann does not include "a planar platform pivotally secured to said swing arm" as now explicitly set forth in independent claim 12. Further, the Eichmann patent does not include any teaching that would suggest to one skilled in the art to provide a swinging article carrier assembly with a planar platform

pivots secured to the swing arm as now set forth in present claim 12. Thus, claim 12 patentably distinguishes over the Eichmann patent and should be formally allowed.

The Clayton patent discloses a cargo carrier for a vehicle including an elongated tongue 18, a frame 14 including an elongated front frame member 28 and a substantially C-shaped rear frame member 26 pivotally secured to the front frame member by means of a clevice 36 and pivot pin 38. A sealed cargo carrier 10 is held in the frame 14 between the frame members 26, 28 by means of pins 56.

Like the Eichmann patent, the Clayton patent does not disclose a swinging article carrier assembly incorporating a planar platform pivotally secured to the swing arm as set forth in present claim 12. Further, whether considered alone or in combination with Eichmann, the Clayton patent provides no motivation to one skilled in the art to provide such a structure as set forth in present claim 12. Accordingly, claim 12 patentably distinguishes over the cited art of record.

New dependent claims 13-22 which depend from claim 12 are equally allowable for the same reasons.

New independent claim 23 also very clearly patentably distinguishes over the Eichmann and Clayton references as well as the other prior art of record. More specifically, claim 23 reads on a swinging article carrier assembly including a mounting arm for securing to the vehicle, a nonarticulated swing arm pivotally secured to the mounting arm and a planar platform pivotally secured to the swing arm.

In formulating the rejection of the original claims in the patent application based upon the Eichmann patent, the Examiner considered the swing arm to be the two pivotally connected sections 38, 42. As set forth in claim 23 the nonarticulated swing arm is pivotally secured to the mounting arm and the planar platform is pivotally secured to the swing arm. No such structure is taught or suggested in the Eichmann patent.

In addition, it should be appreciated that the Clayton patent does nothing to address this shortcoming. More specifically, the Clayton patent fails to disclose any form of planar platform pivotally secured to a swing arm. Accordingly, the prior art cited in rejecting original claims 1-11 fails to provide any basis whatsoever for rejecting new claim 23.

Claims 24-33 depend from claim 23 and patentably distinguish over the Eichmann and Clayton patents, when considered alone or in combination, for the same reasons. Accordingly, these claims patentably distinguish over the art and should be allowed.

In summary, all the pending claims now in the application patentably distinguish over the prior art of record. Upon careful review and consideration it is believed the Examiner will agree with this proposition. Accordingly, the early issuance of a formal Notice of Allowance is earnestly solicited.

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S.N. 10/044,873

Respectfully submitted,

KING & SCHICKLI, PLLC



Warren D. Schickli
Registration No. 31,057

247 North Broadway
Lexington, Kentucky 40507
(859) 252-0889

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Date April 19, 2004 J. Williams